

**June 21, 2023**

## **House Oversight and Reform Committee**

### **Democracy North Carolina Written Testimony**

**Dear Shadow Co-Chair Cervania and Members of the House Oversight Committee:**

On behalf of Democracy North Carolina, we write to share testimony for the concerns we have for Voter ID Implementation and the attacks on Absentee Voting. Two decades ago, lawmakers – with a degree of bipartisan support – implemented pioneering measures such as Same-Day Registration during early voting and a robust early voting period. In 2020, record numbers of voters turned out for the presidential election, while state leaders — often working across party lines — partnered to ensure voting ran smoothly. In 2018 and 2022, election officials, voting advocates, and community leaders collaborated to ensure elections were safe and secure, allowing turnout to reach its highest levels in almost three decades. North Carolina has a proud history of expanding voting access, improving elections, and strengthening democratic institutions. However, since 2013 and the elimination of the federal preclearance requirement, the NC General Assembly passed multiple anti-voting bills as well as drastically gerrymandered maps that undermine the foundations of our democratic system, place extraordinary burdens on election officials, and erect unnecessary barriers for voters. Most recently North Carolina has passed the most anti-voting legislation we have ever experienced in our state history.

Our democracy and the freedom to vote are in grave danger in North Carolina. We are now faced with the reality that voting as we know it in North Carolina will be implemented differently this year starting in the 2023 Municipal elections.

### **Voter ID Implementation**

We have a number of concerns with how the implementation of Voter ID will impact voters and our election process in 2023 and 2024.

*Our primary concern with the current iteration of the Voter ID law remains the disenfranchisement of legitimate voters.* According to a 2020 “matching analysis” commissioned by the Southern Coalition for Social Justice, 480,836 (or 6.65%) of registered North Carolina voters do not have an ID that will work for voting in 2023.<sup>1</sup> Moreover, while the new photo ID requirement will affect the experience of all voters, Black voters are disproportionately impacted – they are 1.4 times more likely than white voters to lack an acceptable ID.<sup>2</sup>

*The new Voter ID requirement is also likely to reduce participation even among voters who do have an acceptable photo ID.* Uncertainty about what specific IDs are acceptable and anxiety about making a mistake in front of polling place officials may keep many voters – particularly the less frequent voters who typically turn out in a Presidential cycle like 2024 – from trying to vote at all. Harmful

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<sup>1</sup> <https://southerncoalition.org/wp-content/uploads/2023/05/Voter-ID-Discriminatory-Impact-FINAL.pdf>

<sup>2</sup> <https://southerncoalition.org/wp-content/uploads/2023/05/Voter-ID-Discriminatory-Impact-FINAL.pdf>

disinformation will no doubt increase and exploit that voter confusion. As Democracy NC testified in 2019 before the U.S. House Committee on House Administration, Subcommittee on Elections, the ID law imposes “both a formal barrier for eligible voters, and an informal one that deters them from casting ballots due to confusion, misinformation, misapplication of the law, or intimidation.”<sup>3</sup>

*Student voters are especially vulnerable to disenfranchisement under the structure of SL 2018-144.*

Unlike the 2013 Voter ID law that was overturned by the U.S. Court of Appeals for the Fourth Circuit, SL 2018-144 permits use of college and university identification as an acceptable photo ID for voting. However, the law does not universally permit student IDs to be used; instead it requires each school to apply to the NC State Board of Elections to have their student ID card approved before it can be used for voting, creating a complex system for institutions of higher education and students to navigate. Although lawmakers did modify the original process outlined in S.L. 2018-144 to make it more feasible for NC colleges and universities to have their IDs approved (see S.L. 2019-22 ), the process is still cumbersome – putting the onus on school administrators to apply for approval before the deadline and on students to know whether their institution’s photo ID is one that has been approved for voting. Indeed, in 2019, only 38% of the 137 NC colleges and universities had their IDs approved for voting in the 2020 election.<sup>4</sup> To its credit, the NCSBE’s current process for student ID approval for use in the 2023 and 2024 elections is more streamlined than in 2019 and promises to provide multiple opportunities for schools to apply for ID approval ahead of the high-turnout 2024 cycle.<sup>5</sup>

*Democracy NC’s findings from the 2016 Primary – the only NC election held with photo ID in place – offer insight into what can be expected in 2023 and 2024.* Through its ongoing poll monitoring program and Election Protection activities, Democracy NC had a unique view into the effect of the photo ID requirement on voters and the voting experience in the 2016 Primary. We found that the various “fail safe” provisions<sup>6</sup> in S.L. 2018-144 intended to mitigate the disenfranchising effects of voter ID did not work as promised on the ground for the following reasons:

- (1) Poll workers gave the wrong type of provisional ballot to voters who had an acceptable ID for voting, but did not have it with them at the time of voting. Rather than provide these voters with the special provisional ballot created in NCGS § 163A-1145.1(c), which will count if the voter brings their qualifying ID to the county Board of Elections office by the last day before canvass, they were given ordinary provisional ballots which cannot be “cured” in the same way and therefore were not counted.
- (2) “Reasonable impediment” ID waivers were processed arbitrarily and inconsistently from county to county.
- (3) County boards of elections misapplied the law in processing “reasonable impediment” ballots.

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<sup>3</sup><https://democracync.org/wp-content/uploads/2019/04/Democracy-NC-House-Field-Hearing-Testimony-4-18-19-without-appendices.pdf>, p. 3. See Appendix.

<sup>4</sup> [Youth Voting Access in NC - Issue Background Sheet - Institute for Southern Studies.pdf](#), p. 3.

<sup>5</sup><https://www.ncsbe.gov/news/press-releases/2023/05/30/state-board-launches-approval-process-student-and-government-employee-ids-voting>

<sup>6</sup> The term “fail safe” here refers to the special provisional ballot, “reasonable impediment” affidavit (now referred to by NCSBE more simply as the “ID waiver”), and the county board review process created in Section 1.2.(a) of S.L. 2018-144.

- (4) Simple mistakes and a lack of poll worker assistance and understanding of the process disenfranchised voters.

Additionally, the extra time and attention required from poll workers to administer the voter ID requirement led to long lines and heightened frustrations at polling sites. Ultimately, we concluded that the complexity of and confusion around the voter ID requirement meant that election officials were unable to conduct the March 2016 Primary in a uniform and fair manner – a warning that election officials and lawmakers should heed and seek to address in advance of the high-turnout 2024 election cycle.<sup>7</sup>

*The interaction between SB747 in its current form and photo voter ID in the 2024 election will lead to major confusion among voters and poll workers alike.* The disenfranchising confusion and long lines that Democracy NC documented in the 2016 Primary will be magnified in 2024 when combined with the provisions in the current version of SB747.<sup>8</sup> We anticipate issues in the following areas:

(1) Poll workers will struggle to fairly and effectively implement these two laws together. During the prolonged roll out of the first photo ID law from 2014-2016, poll workers were often confused about which IDs were required to vote and which IDs were required for Same-Day Registration. Now, with the additional documentary requirements for Same-Day Registration and voting in SB747, poll workers will have to juggle two separate, but interrelated, lists of acceptable ID – one for voting and one for Same-Day Registration – each with its own special provisional processes that must be administered correctly at the polling place level first in order for any of them to count.

(2) Students, people in housing transition, and those new to the state will especially be challenged by the interaction between these two laws. Based on our work monitoring NC elections and responding to calls from voters on the Election Protection hotline, we know that the following groups of people are most likely to be affected by the interaction between SB747 in its current form and the Voter ID requirement:

- Students, who are less likely to have a non-student photo ID that is acceptable for voting and less likely to have an acceptable document (utility bill, tax document, or bank statement) for Same-Day Registration with their name and current address.
- People in housing transition, who may not have an acceptable document for Same-Day Registration, let alone the two that may be required to cast a regular ballot under the current version of SB747. These individuals may be in housing transition for reasons ranging from a recent eviction, a divorce or separation, fleeing from domestic violence, or re-entering society after serving a prison sentence.
- People who have moved recently, who are new to the state or the county and may not be settled in permanent housing or have established all of their accounts in their new home.

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<sup>7</sup> For more details about the problems we saw in the 2016 Primary, please see this *amicus* brief submitted in *NC NAACP v Moore*.

<sup>8</sup> <https://www.ncleg.gov/Sessions/2023/Bills/Senate/PDF/S747v2.pdf>. Note that the bill is still working its way through the legislative process and has not yet passed a chamber.

## Funding for Voter ID Implementation

In addition to the concerns detailed above, we are also deeply concerned about the lack of clarity around state funding for Voter ID's imminent roll-out. With no FY 2023-2024 budget in place and as-yet-unresolved differences between the NC House and Senate versions of the budget, the NC State Board of Elections cannot yet confirm what level of voter outreach and advertising about the new requirement it will be able to conduct. For example, will there be another round of mailers to voters who appear to lack the most common form of photo ID, based on DMV data? Will there be an extensive advertising campaign about the Voter ID requirements before the 2024 General Election, when many voters will cast their ballot for the first time since 2020?

While not yet final or clear, what we know about the likely funding for implementation of the new Voter ID requirement falls far short of estimates of what is needed:

- The \$3.5 million allocated by the House is only enough to cover the cost of free Voter IDs – not considering the costs of educating voters or implementation.
- At this time, the Senate has not allocated *any* funds towards voter ID implementation. The State Board of Elections has requested \$6.5 million for voter ID education, updates to the state's election management system to ensure compliance, and funding towards state-level personnel to support counties administering the new law.
- States that have implemented Voter ID have seen much higher costs to the state. Researchers put the estimated cost for Minnesota at \$10 million to \$13.5 million at the state level, and costs of \$26.5 million to \$63.6 million at the county level.<sup>910</sup>

The State Board of Elections has continued to see funding cuts in recent years, despite the number of registered voters increasing by 33% from 2007-2023.<sup>11</sup> To ensure costs are not passed down to counties that are already facing funding shortfalls, funding must be met at the state level.

## Recommendations for implementing Voter ID

While Democracy NC is opposed to the photo Voter ID requirement and views it as an unnecessary and racially discriminatory barrier to voting, we understand that it is current law. In order for the law to be implemented in a way that negatively impacts as few voters as possible, we offer the following suggestions for implementation of the law in 2023 and 2024, taken directly from Section 1.5(a) of S.L. 2018-144.

The NCSBE must:

- Mail information about ID requirements to all registered voters twice in 2023 and twice in 2024.

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<sup>9</sup> Bonnifield, Kathy and David A. Schultz, September 2012. The Costs of the Proposed Elections Amendment and Anhut, Nicholas, April 2012.

<sup>10</sup> [Voter Identification: The True Costs.](#)

<sup>11</sup> [Funding elections protects sacred act of voting, Budget and Tax Center. 2023.](#)

- Place a statement about the process for voting without a photo ID in all voter education materials mailed to residents and on informational posters at one-stop voting sites and precincts on election day.
- Provide educational materials to underserved and communities of color.
- Train precinct officials to be able to answer voters' questions about ID requirements.
- Require documentation about the bill to be disseminated by precinct officials at every election held after the bill's effective date.
- Coordinate with county boards of elections to conduct at least two informational seminars by May 1, 2024.
- Coordinate with local organizations and service organizations for additional informational seminars.
- Coordinate with media outlets, county boards of commissions, and county boards of elections to inform the public about this bill and provide information in Spanish and other languages as deemed necessary.

Please note that in order to execute any of these recommendations, the NCGA must allocate to NCSBE an additional round of funding comparable to the initial influx it received for voter ID implementation in 2013 and 2019.

## Absentee By Mail

*Over the last eight years, the partisan affiliation of mail-in absentee voters have shifted.* As shown in the chart below, one of the most significant shifts in mail-in absentee voting has been in the partisan affiliation of the voters who use it. Unaffiliated and Democratic voters have increased their usage of this method of voting since 2016, and by 2022 made up the vast majority (81%) of all mail-in absentee ballots cast. Whereas Republican voters once represented a plurality of mail-in absentee voters, by 2022 that had flipped with Democratic voters now making up a plurality of absentee by-mail ballots cast. Indeed, Republican usage of mail-in absentee ballots decreased dramatically in the eight years since 2016, no doubt impacted by the widespread disinformation campaigns targeting the validity of mail-in absentee ballot use. Given these shifts, it is reasonable to ask whether the attempt to impose more stringent requirements on this method of voting is less about the “integrity” of the process and more about which types of voters are now casting these ballots.

Share of Absentee By-Mail Ballots Cast by Party Registration

Party Registration	2022	2020	2018	2016
Unaffiliated	37%	34%	31%	29%
Republican	19%	21%	27%	40%
Democrat	44%	44%	41%	31%
Other	<1%	1%	1%	<1%
Total Mail Ballots	187,746	1,001,717	97,590	191,603

*The mail-in absentee voting process is already cumbersome and confusing for voters – additional photo ID requirements, the elimination of the three-day grace period, and other proposed “election integrity” changes will make it worse.* Calls from voters to the Election Protection hotline with questions about the absentee voting process in the last two federal election cycles provide insight into the voter experience with mail-in voting. In 2020, a year of unprecedented absentee ballot use due the COVID-19 pandemic, nearly 13,000 callers across North Carolina called the Election Protection hotline to get answers to nearly 20,000 distinct issues and concerns about the absentee voting process from the voting experts who staff the number. Voters were confused about the ballot request process, who could assist them in completing a ballot, and the ballot return requirements.<sup>12</sup>

This trend remained consistent in the 2022 election, when the two-witness signature requirement was reinstated following its temporary suspension for the 2020 election. Many voters expressed concern over obtaining witness signatures and mail processing delays, and noted that the recent changes in the rules over the past few years were unclear or hard to keep up with.<sup>13</sup>

### **Recommendations for Improving the Mail-In Absentee Voting Process**

Based on the feedback from voters in the 2020 and 2022 cycles, Democracy NC offers the following recommendations for making the mail-in absentee voting process less confusing and more accessible for voters:

- Eliminate the witness requirement for absentee ballots;
- Allow voters to fix mistakes on their absentee ballots;
- Offer paid postage on absentee ballots;
- Offer secure drop boxes for returning mail ballots;
- Allow voters to pick up their absentee ballot from their county boards of elections;
- Allow voters to request their mail ballot online;
- Allow voters to “opt-in” to mail voting for all future elections;
- Incorporate a mail ballot tracking process into law; and
- Expand the window of time when absentee ballots are accepted.<sup>14</sup>

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<sup>12</sup> [2020 Election Protection Report. Southern Coalition for Social Justice and Democracy North Carolina](#), pp. 17-22.

<sup>13</sup> From our forthcoming 2022 Election Protection report by the Southern Coalition for Social Justice and Democracy North Carolina.

<sup>14</sup> [2020 Election Protection Report. Southern Coalition for Social Justice and Democracy North Carolina](#), p. 40

We appreciate the Committee's attention to these issues. Democracy NC believes that all North Carolinians want an election process that is fair, accessible, and secure, and that our democracy is strongest when all voices are heard. In order to fairly and effectively administer that process, state and local election agencies must be adequately funded and election laws must make it possible for any voter – of any race, gender, age, employment status, income level, or part of the state – to cast their ballots without unnecessary barriers. This is the heart of election integrity, from our perspective. We urge you to provide the necessary funding and resources needed to accurately implement these new laws and to consider the impact of successive laws that burden voters and election officials on the quality of our state's democracy. Let us build a state election system together that reflects our shared values as North Carolinians, not one that is designed to further fracture us.

Thank you for the opportunity to express our concerns. If you have further questions, please contact Carolyn Smith at [carolyn@democracync.org](mailto:carolyn@democracync.org) or at (919) 906-0152.

Regards,

Carolyn Smith  
Democracy North Carolina

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